

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF &
APPENDIX**

77-7006

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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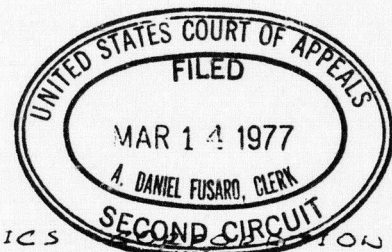
P/S

DOCKET NUMBER 77-7006

BISWANATH HALDER

v

GENERAL TELEPHONE AND ELECTRONICS



BRIEF FOR PLAINTIFF-APPELLANT

and Appendix

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NUMBER 77-7006

BISWANATH HALDER.

PLAINTIFF-APPELLANT.

V

GENERAL TELEPHONE & ELECTRONICS CORPORATION,

DEFENDANT-APPELLEE.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

BRIEF FOR PLAINTIFF-APPELLANT

BISWANATH HALDER

APPELLANT PRO SE

173-17 65 AVENUE

FRESH MEADOWS, NY 11365

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ISSUE PRESENTED

WHETHER LEAVE TO AMEND A PLEADING IS
FREELY GIVEN WHEN JUSTICE SO REQUIRES.

FACTS

THE PLAINTIFF-APPELLANT WAS BORN IN INDIA, OF INDIAN PARENTAGE. HE HOLDS A BACHELOR'S DEGREE IN ELECTRICAL ENGINEERING FROM THE UNIVERSITY OF CALCUTTA. HE IMMIGRATED TO THIS GREAT COUNTRY IN MAY 1969.

PRIOR TO COMING TO THE UNITED STATES, THE PLAINTIFF HAD GAINED TWO YEARS OF EXPERIENCE IN COMPUTER SOFTWARE WITH TWO REPUTABLE COMPUTER MANUFACTURERS IN ENGLAND. HE WAS ADMITTED TO THIS COUNTRY AS AN ALIEN WHO IS A MEMBER OF A PROFESSION FOR WHICH THERE IS AN AVAILABLE MARKET FOR HIS PROFESSIONAL SERVICES. 8 USC 1153(a)(3).

EVER SINCE THE PLAINTIFF ARRIVED IN THE LAND OF OPPORTUNITY, HE HAS BEEN LOOKING FOR A JOB.

THE PLAINTIFF, IN OCTOBER 1974,

COMMENCED INSTANT ACTION AGAINST THE DEFENDANT GENERAL TELEPHONE AND ELECTRONICS CORPORATION (GTE), BY FILING A COMPLAINT AT THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK.

IN THE COMPLAINT THE PLAINTIFF CHARGED THAT THE DEFENDANT DENIED HIM EQUAL EMPLOYMENT OPPORTUNITIES AS PROVIDED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED BY THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972, 42 USCA 20004 et seq., BASED ON ITS FAILURE OR REFUSAL TO HIRE HIM AS A PROGRAMMER-ANALYST BECAUSE OF HIS NATIONAL ORIGIN.

AROUND THE SAME TIME THE PLAINTIFF COMMENCED SIX OTHER ACTIONS AGAINST COMPANIES MAKING SUBSTANTIALLY THE SAME ALLEGATIONS ASSERTED AGAINST THE DEFENDANT.

SINCE APRIL 1975 THE DISTRICT COURT, IN ACTIVE CONCERT AND CO-OPERATION WITH

THE MULTI-NATIONAL AND MULTI-BILLION DOLLAR
CORPORATE DEFENDANTS, HAS BEEN, IN EVERY
POSSIBLE AND EVEN IN SOME IMPOSSIBLE WAYS,
TRYING TO ANNIHILATE* THE POOR AND HELPLESS
PLAINTIFF.

* "FEDERAL COURTS HAVE BEEN ASSIGNED PLENARY
POWERS [TO ANNIHILATE THOSE WHO TRY] TO
SECURE COMPLIANCE WITH TITLE VII." ALEXANDER
V GARDNER-DENVER COMPANY, 1974, 415 U.S. 36, 45,
94 S.Ct. 1011, 1018.

ARGUMENT

THE PRIMARY OBJECTIVE OF CONGRESS IN ENACTING TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 WAS A PROPHYLACTIC ONE :

"IT WAS TO ACHIEVE EQUALITY OF EMPLOYMENT OPPORTUNITIES AND REMOVE BARRIERS THAT HAVE OPERATED IN THE PAST TO FAVOR AN IDENTIFIABLE GROUP OF WHITE [APPLICANTS] OVER OTHER [APPLICANTS FOR EMPLOYMENT]." GRIGGS V DUKE POWER COMPANY, 1971, 401 U.S. 424, 430-1, 94 S.Ct. 849, 853.

CO-OPERATION AND VOLUNTARY COMPLIANCE WERE SELECTED AS THE PREFERRED MEANS FOR ACHIEVING THIS GOAL :

"CONGRESS CREATED THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND ESTABLISHED A PROCEDURE WHEREBY EXISTING STATE AND LOCAL EQUAL EMPLOYMENT OPPORTUNITY AGENCIES,

AS WELL AS THE COMMISSION, WOULD HAVE AN OPPORTUNITY TO SETTLE DISPUTES THROUGH CONFERENCE, CONCILIATION, AND PERSUASION BEFORE THE AGGRIEVED PARTY [IS] PERMITTED TO FILE A LAWSUIT." ALEXANDER V GARDNER-DENVER COMPANY, 1974, 415 U.S. 38, 44, 94 S.Ct. 1011, 1013.

THE SAME LINE OF REASONING IS FOUND IN THE SUPREME COURT'S DECISION IN JOHNSON V RAILWAY EXPRESS AGENCY, 1975, 421 U.S. 454, 461, 95 S.Ct. 1716, 1720 :

"CONCILIATION AND PERSUASION THROUGH THE ADMINISTRATIVE PROCESS, TO BE SURE, OFTEN CONSTITUTE A DESIRABLE APPROACH TO SETTLEMENT OF DISPUTES BASED ON SENSITIVE AND EMOTIONAL CHARGES OF INVIDIOUS EMPLOYMENT DISCRIMINATION.

IN ORDER TO COVER-UP ITS DISCRIMINATORY EMPLOYMENT POLICIES AND PRACTICES, APPELLEE'S COUNSEL, DURING THE CONCILIATORY PROCEDURE OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS, DIRECTED THE SAID AGENCY TO WRITE

IN ITS DETERMINATION THAT "A PERSON OF INDIAN NATIONAL ORIGIN WHO HAD RESPONDED TO THE ADVERTISEMENT COMPLAINED ABOUT [EXHIBIT D] HAD BEEN HIRED" (EXHIBIT I). BUT THE FACT IS THAT GTE HIRED A PERSON OF AMERICAN NATIONAL ORIGIN, MARY DOMINIQUE (EXHIBIT J).

MOREOVER, AT THE CONFERENCE, THE APPELLEE "MADE A BONA FIDE OFFER TO SET UP INTERVIEW APPOINTMENTS FOR THE [APPELLANT] WHENEVER A SUITABLE VACANCY ARISE AT ANY OF GTE'S FACILITIES (EXHIBIT I).

SIX YEARS HAVE PASSED BY, AND VARIOUS FACILITIES OF THE APPELLEE HAVE INSERTED INNUMERABLE ADVERTISEMENTS SEEKING TO RECRUIT ENGINEERS AND PROGRAMMERS (D38, EXHIBITS A1B) ** ALTHOUGH THE APPELLANT'S BACKGROUND — TRAINING IN ELECTRICAL ENGINEERING AND EXPERIENCE IN ASSEMBLY LANGUAGE PROGRAMMING (D13, EXHIBIT O) — PERFECTLY MATCHED A GREAT MANY OF THOSE JOB REQUIREMENTS, HE HAD NEVER BEEN CALLED

BEST COPY AVAILABLE

FOR AN INTERVIEW. THE APPELLEE'S OFFER THUS
TURNS OUT TO BE MALA FIDE.

IN SHORT, THE APPELLEE SPURNED
RECONCILIATORY SOLUTIONS — A STEP
TANTAMOUNT TO VIOLATING THE SPIRIT AND
LETTER OF THE LAW.

** REFERENCE TO THE RECORD WILL BE MADE BY
DOCUMENT NUMBER ON THE DOCKET SHEET,
AND BY PAGE : "D , P " .

POINT I LEAVE TO AMEND A PLEADING IS FREELY
GIVEN WHEN JUSTICE SO REQUIRES

THE APPELLANT IS AN ENGINEER, AND A LAYMAN
IN MATTERS OF LAW. THE SUPREME COURT HAS LONG
RECOGNIZED THAT "EVEN THE INTELLIGENT AND
EDUCATED LAYMAN HAS SMALL AND SOMETIMES NO
SKILL IN THE SCIENCE OF LAW." POWELL V ALABAMA
1932, 287 U.S. 45, 69, 53 S.2d. 55, 84.

AT THE TIME THE APPELLANT FILED CHARGES
OF DISCRIMINATION AGAINST THE APPELLEE WITH
THE ADMINISTRATIVE AGENCIES (EXHIBITS F & G),
HE HAD EVERY INTENTION OF IMPLICATING THE
PARENT COMPANY, GTE, AS WELL ^{AS} ITS SUBSIDIARIES
SINCE THE RESPONSES THE APPELLANT RECEIVED
FROM THE SUBSIDIARIES CONFIRMED APPELLANT'S
CONTENTION THAT THE SUBSIDIARY COMPANIES ARE
ALL "A PART OF GENERAL TELEPHONE & ELECTRONICS
A LEGEND CLEARLY IMPRINTED ON THE LETTERHEADS

OF THE SUBSIDIARIES THEMSELVES (EXHIBITS B & D).

IN HIS ORIGINAL COMPLAINT THE APPELLANT HAD INCLUDED ONLY ONE ACT OF DISCRIMINATION — THE LAST (D2). WHEN THE APPELLANT REALIZED THAT THE COMPLAINT HAD TO BE EXHAUSTIVE AND THAT IT HAD TO INCLUDE ALL THE DATES ON WHICH DISCRIMINATORY ACTS OCCURRED, HE MOVED TO AMEND THE COMPLAINT (D5).

THE APPELLEE, THEN, MOVED TO DISMISS THE COMPLAINT, PURSUANT TO RULE 12(b)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE, FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED, ON THE GROUND THAT THE APPELLANT IS BARRED FROM INSTITUTING A TITLE VII ACTION AGAINST GTE AS WELL ITS SUBSIDIARY COMPANIES CONCERNING NINETEEN (19) SEPARATE DISCRIMINATORY ACTS BASED ON ONLY ONE CHARGE FILED WITH THE EEOC (D 11 112).

THEREUPON, THE APPELLANT MOVED, PURSUANT TO RULE 15 OF THE FEDERAL RULES OF CIVIL

PROCEDURE, TO AMEND THE COMPLAINT TO INCLUDE A CAUSE OF ACTION UNDER THE CIVIL RIGHTS ACT OF 1866, AS AMENDED BY THE ENFORCEMENT ACT OF 1870, 42 USCA 1981, AS WELL AS TO JOIN THE SUBSIDIARY COMPANIES WHERE THE PLAINTIFF SOUGHT EMPLOYMENT AS PARTY-DEFENDANTS (D 13):

RULE 15(C) OF THE FEDERAL RULES OF CIVIL PROCEDURE PROVIDES, IN PERTINENT PART, THAT "A PARTY MAY AMEND HIS PLEADING ONLY BY LEAVE OF COURT . . . ; AND LEAVE SHALL BE FREELY GIVEN WHEN JUSTICE SO REQUIRES."

THE APPLICABLE STANDARD FOR DETERMINING WHETHER TO GRANT LEAVE FOR THE FILING OF AN AMENDED COMPLAINT HAS BEEN STATED BY THE SUPREME COURT :

"THE APPLICABLE RULE IS RULE 15 OF THE FEDERAL RULES OF CIVIL PROCEDURE, WHICH WAS DESIGNED TO FACILITATE THE AMENDMENT OF PLEADINGS EXCEPT WHERE PREJUDICE TO THE

OPPOSING PARTY WOULD RESULT." UNITED STATES
HOUGHAM, 1960, 364 U.S. 310, 316, 81 S.Ct. 13.18 ;
SEE ALSO ZENITH RADIO CORPORATION V HAZELTINE
RESEARCH, INC., 1971, 401 U.S. 321, 330-1, 91 S.Ct. 795, 80

THE SUPREME COURT ELABORATED ON THIS
STANDARD IN ROMAN V DAVIS, 1962, 371 U.S. 178, 182
83 S.Ct. 227, 230 :

"IN THE ABSENCE OF ANY APPARENT OR DECLARED
REASON — SUCH AS UNDUE DELAY, BAD FAITH
OR DILATORY MOTIVE ON THE PART OF THE
MOVANT, REPEATED FAILURE TO CURE DEFICIENCIES
BY AMENDMENTS PREVIOUSLY ALLOWED, UNDUE
PREJUDICE TO THE OPPOSING PARTY BY VIRTUE
OF THE ALLOWANCE OF THE AMENDMENT, FUTILITY
OF AMENDMENT, ETC. — THE LEAVE SOUGHT
SHOULD, AS THE RULES REQUIRE, BE 'FREELY
GIVEN'."

NONE OF THE FACTORS MILITATING AGAINST
GRANTING LEAVE TO AMEND AS STATED ABOVE
ARE PRESENTED IN THE INSTANT ACTION.

FURTHERMORE, THE APPELLANT RESPECTFULLY POINTS OUT THAT THE CARDINAL RULE IN EQUITY WAS THAT ALL PERSONS MATERIALLY INTERESTED IN A SUIT OUGHT TO BE MADE PARTIES, EITHER AS PLAINTIFFS OR DEFENDANTS, IN ORDER TO PREVENT A MULTIPLICITY OF SUITS, AND THAT THERE MIGHT BE A COMPLETE AND FINAL DECREE BETWEEN ALL PARTIES INTERESTED. MALLOU V HINDE 1877, 25 U.S. (12 WHEAT) 193, 196; BARNEY V BALTIMORE, 1868, 73 U.S. (6 WALL) 280, 282; MINNESOTA V NORTHERN SECURITIES COMPANY, 1902, 184 U.S. 199, 235, 22 S.Ct. 308, 322.

IN THE INSTANT ACTION, THE SUBSIDIARY COMPANIES WITH WHOM THE APPELLANT SOUGHT EMPLOYMENT ARE INDISPENSABLE PARTIES.

INDISPENSABLE PARTIES, THE SUPREME COURT HAS SUGGESTED TIME AND AGAIN, ARE PARTIES WITHOUT IMPLEADING WHOM A COURT OF EQUITY WILL NOT PROCEED TO A FINAL DECISION :

"PERSONS WHO NOT ONLY HAVE AN INTEREST

IN THE CONTROVERSY, BUT AN INTEREST OF SUCH A NATURE THAT A FINAL DECREE CANNOT BE MADE WITHOUT EITHER AFFECTING THAT INTEREST, OR LEAVING THE CONTROVERSY IN SUCH A CONDITION THAT ITS FINAL TERMINATION MAY BE WHOLLY INCONSISTENT WITH EQUITY AND GOOD CONSCIENCE." SHIELDS V BARROW, 1854, 58 U.S. (17 HOW) 130, 139; BARNEY V BALTIMORE, 1868, 73 U.S. (6 WALL) 280, 284-5; NILES-CEMENT-POWD COMPANY V IRON MOULDERS' UNION, 1920, 254 U.S. 77, 80, 41 S.Ct. 39, 41; LUMBERMEN'S MUTUAL CASUALTY COMPANY V ELBERT, 1954, 348 U.S. 48, 52, 75 S.Ct. 151, 154.

AMPLE PRECEDENT IS FOUND IN THE PRACTICE OF LOWER COURTS WHICH HAVE GENERALLY ALLOWED PLAINTIFFS TO ADD OR SUBSTITUTE PARTIES WHERE THERE IS AN EXTREMELY CLOSE INTERCORPORATE OR OTHER RELATIONSHIP BETWEEN THE ORIGINAL AND ADDED DEFENDANT, AND THERE IS NO PREJUDICE TO THE NEW PARTY. KAMINSKY V ABRAMS, 41 F.R.D. 168, 171, SD NY 1966; GRAM V

MAY. 41 F.R.D. 52, 54, ED PA 1966 ; UNITED STATES V
TRAVELERS INSURANCE COMPANY, 40 F.R.D. 316, 318,
DE CO 1966 ; STANLEY WORKS V HAEGER POTTERIES,
INC., 35 F.R.D. 551, 554, ND IL 1964 ; McDONALD V
CHRYSLER MOTORS CORPORATION, 27 F.R.D. 442, 443,
ND PA 1961 ; DENVER V FORBES, 26 F.R.D. 614, 616,
ED PA 1960 ; MELTZER V HOTEL CORPORATION OF
AMERICA, 25 F.R.D. 62, 65, ND OH 1960 ; HOLIDAY
PUBLISHING COMPANY V GREGG, 330 F.Supp. 1326, 1328,
SD NY 1971 ; NEWMAN V FREEMAN, 262 F.Supp. 106, 113,
ED PA 1966 ; MARINO V GOTHAM CHALKBOARD
MANUFACTURING CORPORATION, 259 F.Supp. 953, 954,
SD NY 1966 ; ADAMS V BELAND REALTY CORPORATION
187 F.Supp. 680, 682, ED NY 1960 ; HENSS V
SCHWEIDER, 132 F.Supp. 64, 65, SD NY 1955 ; HELENE
CURTISS INDUSTRIES, INC. V SALES AFFILIATES, INC.,
105 F.Supp. 888, 900, SD NY 1952, AFF'D 199 F.2d 732,
CA 2 1952 ; TAORMINA CORPORATION V ESCOBEDO,
254 F.2d 171, 173, CA 5 1958, CERT. DEN. 1958, 358
U.S. 827, 79 S.Ct. 44 ; GIFFORD V DICHITA FALLS &

SOUTHERN RAILWAY COMPANY, 224 F.2D 374, 376, 2A 5
1955, CERT. DEN. 1955, 350 U.S. 895, 76 S.Ct. 153;
GRANDEY V PACIFIC INDEMNITY COMPANY, 217 F.2D
27, 29, 2A 5 1954.

CONTRARY TO THIS WELL ESTABLISHED PRACTICE
THE TRIAL COURT DENIED LEAVE TO THE APPELLANT
TO AMEND THE COMPLAINT TO INCLUDE A CAUSE OF
SECTION
ACTION UNDER A 1981 AND TO JOIN SUBSIDIARY
COMPANIES AS ADDITIONAL DEFENDANTS (D 24),
ALTHOUGH THE APPELLANT — WHO IS NEITHER
WHITE NOR A CITIZEN OF THE UNITED STATES, BUT
A RESIDENT ALIEN WHO FALLS WITHIN THE
JURISDICTION OF THE UNITED STATES — HAS THE
SAME RIGHT TO MAKE AND ENFORCE EMPLOYMENT
CONTRACTS AS IS ENJOYED BY WHITE CITIZENS.
MCDONALD V SANTA FE TRAIL TRANSPORTATION
COMPANY, 1976, 427 U.S. 273, 285-96, 96 S.Ct. 2574, 2580-6;
TAKAHASHI V FISH & GAME COMMISSION, 1948, 334
U.S. 410, 419, 68 S.Ct. 1138, 1142-3; UNITED STATES V
THIND, 1923, 261 U.S. 204, 209, 43 S.Ct. 338, 340.

"OF COURSE. THE GRANT OR DENIAL OF AN OPPORTUNITY TO AMEND IS WITHIN THE DISCRETION OF THE DISTRICT COURT" FOMAN V DAVIS, 1962, 371 U.S. 178, 182, 83 S.Ct. 227, 230. ACCORD, ZENITH RADIO CORPORATION V HAZELTINE RESEARCH, INC., 1971, 401 U.S. 321, 330, 91 S.Ct. 795, 802; THOMSEN V CAYSER, 1917, 243 U.S. 66, 89, 37 S.Ct. 353, 360; TILTON V BOFIELD, 1876, 93 U.S. (23 WALL) 163, 166.

BUT SUCH A DISCRETIONARY CHOICE IS NOT LEFT TO A COURT'S "INCLINATION, BUT TO ITS JUDGMENT; AND ITS JUDGMENT IS TO BE GUIDED BY SOUND LEGAL PRINCIPLES." UNITED STATES V BURR, 1807, 25 FEDERAL CASES NO. 14,692, PP 30.35 (MARSHALL, C.J.).

"OUTRIGHT REFUSAL TO GRANT THE LEAVE [TO AMEND THE COMPLAINT] WITHOUT ANY JUSTIFYING REASON APPEARING FOR THE DENIAL IS NOT AN EXERCISE OF DISCRETION; IT IS MERELY ABUSE OF THAT DISCRETION AND INCONSISTENT WITH THE SPIRIT OF THE FEDERAL RULES." FOMAN V DAVIS,

1962. 371 U.S. 178, 182, 83 S.Ct. 227, 230.

THE APPELLANT PRAYS THAT THE COURT BE MINDFUL OF THE PURPOSE OF PLEADINGS WHICH IS "TO FACILITATE A PROPER DECISION ON THE MERITS," *COULEY V GIBSON*, 1957, 355 U.S. 41, 48, 78 S.Ct. 99, 103, AND NOT TO ERECT FORMAL AND BURDENSOME IMPEDIMENTS IN THE LITIGATION PROCESS.

SINCE IT IS TRANSPARENT THAT THE COURT BELOW DEFEATED THE ENDS OF JUSTICE IN DENYING LEAVE TO THE APPELLANT TO AMEND THE COMPLAINT TO JOIN SUBSIDIARY COMPANIES AS PARTY-DEFENDANTS THE SAID DECISION SHOULD BE REVERSED.

CONCLUSION

THE JUDGMENT APPEALED FROM SHOULD BE
REVERSED.

RESPECTFULLY SUBMITTED.

Biswanath Halder

Appellant Pro Se

BISWANATH HALDER

173-17 65 AVENUE

FLUSHING, NY 11365

TEL : 212-539-2305

DATED : Queens, New York

March 9, 1977

GENERAL TELEPHONE & ELECTRONICS CORPORATION

730 THIRD AVENUE, NEW YORK, N. Y. 10017

TELEPHONE | AREA CODE 212
551-1000

December 23, 1968

Mr. B. Halder
7 Horsecroft Road
Hemel Hempstead, Herts
England

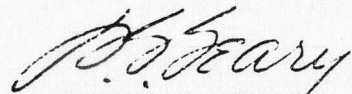
Dear Mr. Halder:

Thank you for your recent letter expressing interest in becoming associated with General Telephone & Electronics Corporation.

We have reviewed the information you submitted and appreciate the qualifications you presented. However, in reviewing the opportunities throughout our organization, we find that we have no positions available for you which would be mutually advantageous.

Thank you again for your consideration of General Telephone & Electronics and for giving us the opportunity to review your background.

Sincerely yours,



PHILIP G. GEARY
Employment Coordinator

PGG:ms

EXHIBIT "A"

GENERAL TELEPHONE & ELECTRONICS CORPORATION

730 THIRD AVENUE, NEW YORK, N.Y. 10017

TELEPHONE | AREA CODE 212
551-1000

June 18, 1969

Mr. Biswanath Halder
William Sloane House YMCA
356 West 34th Street
New York, New York 10001

Dear Mr. Halder:

We are pleased to know of your interest in working for General Telephone.

We have, as you may know, extensive operations throughout the United States. Here in our Headquarters Office, we would not be able to utilize your services. However, it may be that one of our Operating Companies would be interested in your qualifications.

We are attaching a list of addresses of the individual companies. It is suggested that you direct your inquiry to the company which most interests you. We feel sure that you will receive every consideration from that company.

We appreciate your interest in General Telephone.

Sincerely yours,

David D. Gilrain

DAVID D. GILRAIN
Employment Coordinator

EXHIBIT "B"

GTE INFORMATION SYSTEMS

INCORPORATED

FOUR CORPORATE PARK DRIVE, WHITE PLAINS, N.Y. 10604 • 914-694-8840

February 19, 1971

Mr. Bisu Halder
128 Ward Street
Paterson, New Jersey 07505

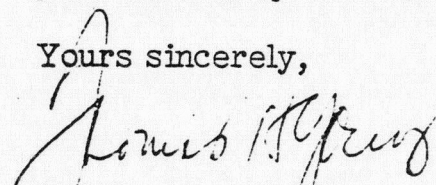
Dear Mr. Halder:

Thank you for your inquiry regarding the possibility of a position with GTE Information Systems Incorporated.

We have reviewed your correspondence with interest but, unfortunately, do not at the moment have prospects of any openings which would justify us in giving you any encouragement at this time. Should there be a change in our situation in the near future, we shall get in touch with you to determine your availability and interest.

We certainly appreciate your interest in GTE Information Systems and the opportunity to review your qualifications. We wish you every success in finding a position which matches your fine background and interests.

Yours sincerely,



Thomas H. Young
Manager-Personnel

THY/fgs

NEW YORK TIMES

THE NEW YORK TIMES, S.

FEB. 28, 1971
Programmer Interactive Graphics

Programmer will be responsible for the installation and operation of an IBM 1130/2250 system and linkage to an S/360 computer. Experience in generating interactive graphics applications and in programming in both assembler and higher level languages on 1130 and S/360 desired.

Programmer Mini-computers

Hands-on experience in machine language programming of one or more mini-computers such as Tempo I, PDP 11, Nova CDC 1700 is required. Programmer will be responsible for machine language programming and development of remote access data based management techniques. Specific hardware includes a multi-processor mini-computer further supported by an S/360 interface and communication capability.

Send resume to Mr. Michael D. Marvin

GTE LABORATORIES

INCORPORATED

A SUBSIDIARY OF

General Telephone & Electronics Corporation

208-20 Willets Point Blvd., Bayside, N.Y. 11360

An equal opportunity employer (m/f)

02 - 28 - 1971

EXHIBIT "D"

GTE LABORATORIES
INCORPORATED

208-20 WILLETS POINT BOULEVARD
BAYSIDE, NEW YORK 11360 • 212-225-5000

March 16, 1971

Mr. Bisu Halder
128 Ward Street
Paterson,
New Jersey 07505

Dear Mr. Halder:

Thank you for your recent inquiry regarding employment with GTE Laboratories Incorporated.

Your background has been reviewed with respect to our present requirements and we are sorry to advise that we are unable to offer you a position at this time.

Since your background is appropriate, we will continue to hold your resume in our files for future consideration of employment opportunities in our Laboratories.

Your interest in GTE Laboratories Incorporated is appreciated and we regret that we cannot be more encouraging at this time.

Very truly yours,

Michael D. Marvin

Michael D. Marvin
Professional Placement

MDM:gc

CHARGE OF DISCRIMINATION

(If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's Regional Office in your area. In most cases, a charge must be filed with the EEOC within a specified time after the discriminatory act took place. IT IS THEREFORE IMPORTANT TO FILE YOUR CHARGE AS SOON AS POSSIBLE.)

This form is to be used only to file a charge of discrimination based on RACE, COLOR, RELIGION, SEX, or NATIONAL ORIGIN.

MAY 7 1971

Case File No. TNY 1 1681

(PLEASE PRINT OR TYPE)

1 Your Name (Mr., Mrs., Miss) BISWANATH HALDER Phone Number (201) 684-2320
 Street Address 128 WARD STREET
 City PATERSON State N. J. Zip Code 07505

2 WAS THE DISCRIMINATION BECAUSE OF: (Please check one)
 Race or Color ☐ Religious Creed ☐ National Origin ☒ Sex ☐

3 Who discriminated against you? Give the name and address of the employer, labor organization, employment agency and/or apprenticeship committee. If more than one, list all.

Name GENERAL TELEPHONE & ELECTRONICS CORPORATION
 Street address 730 THIRD AVENUE
 City NEW YORK State N.Y. Zip Code 10017

AND (other parties if any)

4 Have you filed this charge with a state or local government agency? Yes ☐ When MONTH DAY YEAR No ☒

5 If your charge is against a company or a union, how many employees or members? Under 25 ☐ Over 25 ☒

6 The most recent date on which this discrimination took place: Month MARCH Day 16 Year 1971

7 Explain what unfair thing was done to you. How were other persons treated differently? (Use extra sheet if necessary.)

AT&T is one of the largest electrical manufacturing companies in the world. Their various divisions advertise frequently in different newspapers for computer personnel prior to coming to the U.S. in mid-69, I had a B.S. in Electrical Engineering and two years of computer programming experience with two renowned computer manufacturers in U.S. And I consider myself to be far above average in my field. Although the country needs more computer personnel than the rest of the world put together, I am having too much trouble in locating a suitable employment. I applied to AT&T on different occasions, but have never had the opportunity to appear for an interview. I am unemployed in this country since July, 70, even after making hundreds of applications to hundreds of corporations.

8 I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Date May 3, 1971 Biswanath Halder
 (Sign your name)

Subscribed and sworn to before me this day of 196

(Name)

(Title)

If it is difficult for you to get a Notary Public to sign this, sign your own name and mail to the Regional Office. The Commission will help you to get the form sworn to.

STATE DIVISION OF HUMAN RIGHTS

on the complaint of

Biswanath Halder

Complainant,

against

General Telephone & Electronics
Corp.

Respondent.

COMPLAINT NO.

OS - 27 - 1971

I, Biswanath Halder
residing at 128 Ward Street, Paterson, New Jersey Tel No. 201-684-2320
charge General Telephone & Electronics Corp.

whose address is 730 Third Avenue, New York 10017, New York Tel No. _____
with an unlawful discriminatory practice relating to employment on or about April 1971
by denying me equal terms, conditions and privileges of an interview
for employment because of my national origin
because of my AGE (), RACE (), CREED (), COLOR (), NATIONAL ORIGIN (X), SEX ().

The particulars are:

1. From June 1969 until April 1971 I have responded to advertisements in the New York Times, and other newspapers for available positions as Computer Programmer/ Analyst. Respondents state in their advertisements to mail in a resume.
2. I consider myself highly qualified for this position and I have submitted numerous resume's to respondents and I have received written notice that respondents do not have a suitable match for me in the position. In response to some advertisements where I have submitted resume's I have not received any reply from respondents.
3. To my belief, because I state on my resume I am of Indian national origin and my education reflects a background of training in India respondents do not afford me an interview for their available jobs.
4. I am of Indian national origin. Based upon the foregoing I charge General Telephone & Electronics Corp., with an unlawful discriminatory practice relating to employment by denying me equal terms, conditions and privileges of an interview for employment because of my national origin, in violation of the Human Rights Law of the State of New York.

_____, the complainant in
the above matter, have been informed of my right

By reason of the unlawful discriminatory practice of respondent as herein alleged, complainant has already suffered damages in the sum of \$ unspecified

Signature _____

I have not commenced any civil, criminal or administrative action or proceeding in any court or administrative agency based upon the same grievance.

EXHIBIT "G"



JACK M. SABLE
Commissioner

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF HUMAN RIGHTS
62 EAST 125TH STREET, NEW YORK, N. Y. 10035
TEL: ENRIGHT 9-1112

July 9, 1971

Biswanath Halder
128 Ward Street
Patterson, New Jersey

RE: Biswanath Halder vs. General
Telephone and Electronics Corp.
Ib-CF-917-71

The above entitled verified complaint which has been
filed with the Division has been investigation as required
by the Human Rights Law.

I am enclosing herewith my determination which is
self-explanatory.

Very truly yours,

Courtney Brown
Regional Manager

CB/ea
Enc.

EXHIBIT "H"

DETERMINATION AND ORDER AFTER INVESTIGATION

Central No: CF-24287-71

Local No: Ib-CF-917-71 Biswanath Halder vs. General Telephone and Electronics Corp.

On May 27, 1971, Biswanath Halder, who is of Indian national origin, filed a verified complaint with the State Division of Human Rights charging the above-named respondents with an unlawful discriminatory practice relating to employment by denying him equal terms, conditions and privileges of an interview because of his national origin, in violation of the Human Rights Law of the State of New York.

After investigation, the Division of Human Rights has determined that there is no probable cause to believe that the respondents have engaged or are engaging in the unlawful discriminatory practice complained of.

The respondents at conference submitted documentation that established the fact that 72 resumes in specific response to the ad complained about plus 15 miscellaneous resumes were received.

The respondents established the fact that a technical committee reviewed approximately 30 resumes that had been selected as the best prospects.

The respondents established the fact that 14 applicants had been chosen for interviews for 2 specific jobs.

The respondents documented the fact that a person of Indian national origin who had responded to the advertisement complained about had been hired.

The respondents at conference made a bona fide offer to set up interview appointments for the complainant which was accepted.

Upon the foregoing, the complaint is ordered dismissed and the file is closed.

The complainant or any party to the proceeding before the Division may appeal this order to the State Human Rights Appeal Board, 250 Broadway, New York, New York 10007, by filing a notice of appeal within fifteen (15) days after the date of the mailing of this order.

DATED: July 9, 1971

STATE DIVISION OF HUMAN RIGHTS

BY

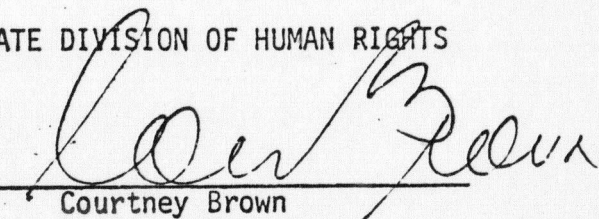
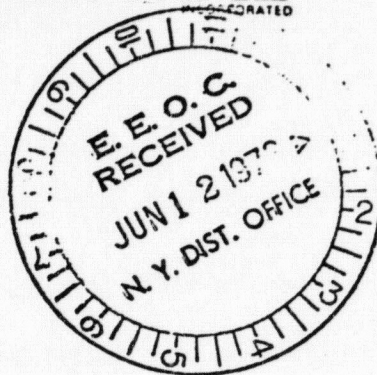

Courtney Brown
Regional Manager

EXHIBIT "I"

GTE LABORATORIES



BAYSIDE RESEARCH CENTER
208-20 WILLETS POINT BOULEVARD
BAYSIDE, NEW YORK 11360
212-225-5000

June 8, 1972

Ms. Anita Alexander
Equal Employment Opportunity Commission
26 Federal Plaza
Room 4000
New York, New York 10007

Dear Ms. Alexander:

On March 2, 1971, we received a letter and resume from Mr. Bisu Halder in response to our advertisement in the New York Times on February 28, 1971 for Interactive Graphics and Mini-computer Programmers. On March 16, 1971 we mailed a letter to Mr. Halder advising him of the fact that we had reviewed his background, and that his qualifications did not match the requirements of a current vacancy.

The above was handled by Mr. Michael Marvin, Supervisor of Professional Employment. Mr. Marvin left our Company, due to the closing of the Bayside Laboratories on May 5, 1972.

It is my opinion that the reason Mr. Halder was not invited for an interview was that there were several respondents having stronger qualifications for our position, and it is further my opinion that Ms. Mary Dominique, the candidate who was hired for the opening, has better qualifications for this position than Mr. Halder.

Very truly yours,

A handwritten signature in cursive script that reads "James G. Cobban".

James G. Cobban
Manager, Personnel

JGC:gc
Enc.

CLOSED APPEAL

WISHLER, J.

TITLE OF CASE

ATTORNEYS

~~BISWANATH HALDER~~

vs.

GENERAL TELEPHONE & ELECTRONICS CORP.

For Plaintiff:

Pro Se

161-26 Crescent St.

Jamaica, Ny 11432

657-4366

For Defendant:

Dean's Röhre

NY 100-104501-1000

486*3200:

BASIS OF ACTION: CIVIL RIGHTS

XT05070XX DKX FALLZ GEDTALCK

730x Third Ave x NYC 10017

RELATED CASES": 74C 1069; 74C 1375; 74C 1376 and
74C 1377

Michael Treanor

20 East 46 Street N.Y. N.Y.

(212) 687-7210

JURY TRIAL CLAIMED

ON

[illegible]

ABSTRACT OF COSTS

RECEIPTS, REMARKS, ETC.

[illegible]

840 1531

HALDER v. GEN'L TELEPHONE & ELECTRONICS

DATE	THINGS-PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURNS
10-29-74	By MISHLER, CH.J.-Order dated 10-29-74 that plttf in above entitled proceeding be permitted to prosecute proceeding to conclusion without prepayment of fees or costs filed.	1 JS5
10-29-74	Complaint filed. SUMMONS ISSUED	2
11-7-74	Summons issued.	
11/18/74	Summons ret'd and filed Executed	3
11-29-74	ANSWER to complaint and motion for other relief filed.	4
12-31-74	Notice of motion to amend complaint ret 1-17-75 filed.	5
1-17-75	Before MISHLER, CH. J.--Case called. Plttf's motion for an order to amend complaint adj'd to 2-7-75	
1/22/75	By MISHLER, CH.J.- Order dated 1/22/75 filed that the hearing on Plttf's Motion to Amend his complaint is adj'd to 2/7/75	6
2/7/75	Before MISHLER, CH.J.- Case called- No appearance-Marked off	
2/11/75	Stipulation dated 2/3/75 filed that the hearing on Plttf's Motion to Amend his complaint is adj'd to 3/21/75 , etc. GTE notified.	7
2-14-75	Interrogatories filed.	8
2-14-75	Notice of Appearance filed.	9
2-18-75	Affidavit of Service by mail filed.	10
3-6-75	Notice of motion to dismiss complaint ret 3-21-75 filed.	11
3-6-75	Memorandum of law filed.	12
3-12-75	Notice of motion ret 3-21-75 for an order granting plttf leave to amend his complaint filed., with notice of cross- motion ret 3-21-75.	13
3/18/75	Affidavit of Dean C. Rohrer filed.	14
3/18/75	Statement of Debt pursuant to General Rule 9(g) filed.	15
3/18/75	Memorandum of Law of debt filed.	16
3/18/75	Affidavit of Dean C. Rohrer filed.	17
3/18/75	Statement of Debt pursuant to General Rule 9(g) filed.	18
3/18/75	Memorandum of Law of debt General Telephone & Electronics Corp. filed.	19
3/21/75	Before MISHLER, CH.J.- Case called- Debt's motion to dismiss complaint-Decision reserved-Court stayed answer to interrogatories pending decision.-Plttf's motion granting the plttf leave to amend his complaint-Motion argued-Decision reserved.	
3-26-75	Supplemental affidavit of Dean C. Rohrer in support of GTE's motion to dismiss, etc. filed.	20
3/26/75	Supplemental Affidavit of Dean C. Rohrer filed.	21
3-31-75	Affidavit of Dean C. Rohrer filed.	22

CONTINUED

CIVIL DOCKET

DATE	FILINGS—PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED IN EMOLUMENT RETURNS
		PLAINTIFF	DEFENDANT	
4-7-75	Pltff's supplemental affidavit in support of his motion to amend the complaint, etc filed.			23
5-01-75	By MISHLER, CH. J.-Memorandum of Decision and Order dtd 4-30-75 denying pltff's motion to amend his complaint and directing Clerk to enter judgment in favor of the deft filed. (p/c mailed to attys)			24
5-3-75	JUDGMENT dtd 5-2-75 dismissing complaint filed. (p/c mailed to attys)			25
5-7-75	Pltff's motion to amend judgment, ret 5-16-75 at 10 A.M. filed.			26
5-13-75	Memorandum of Law of deft in opposition to motion to amend filed.			27
5-13-75	Memorandum of law of deft Gen. Tele. in opposition to pltff's motion to alter or amend judgment filed.			28
5-14-75	Notice of motion ret 5-16-75 for an order granting pltff leave to file an amended complaint filed.			29
5-14-75	Memorandum of Law filed.			30
5/16/75	Before MISHLER, CH. J.- Case called- Pltff's motion to alter or amend, etc.-Motion adjd without date.-Pltff's motion for an order granting pltff's leave, etc.-Motion adjd without date.			
8-13-75	Affidavit of Biswanath Halder filed.			31
2-6-76	Copy of letter Judge Mishler to B. Holder			32
2-6-76	By MISHLER, J.- Order dtd. 2-5-76 that the judgment dismissing the complaint is vacated and the pltff. complaint is hereby reinstated filed.			33
2-9-76	Copy of letter dtd 2-5-76 from CH. J. Mishler filed re setting date for trial: Feb. 10, 1976 at 10 A.M.			34
2-10-76	Before MISHLER, J.-Case called. Adj without date for trial pending completion of discovery.			
2-13-76	Notice of appearance of trial counsel filed.			35
2-14-76	Interrogatories filed.			36
2-11-76	Sten. transcript dtd. 2-10-76 filed in 74-C-1531			---
2-6/9/76	Answers to interrogatories filed			37
2-6-10-76	Deft answers to interrogatories with defts annual reports from 1969 to 1975 attached filed.			38
11-26-76	Before MISHLER, CH. J.- case called - trial ordered & begun (non-jury) -trial concluded - the Court found in favor of the defendant and against the plaintiff - the Clerk is directed to enter judgment dismissing the complaint together with costs - there were finding of facts & conclusions of law entered on the record.			

[illegible]

020310

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BISWANATH HALDER,

- against -

GENERAL TELEPHONE & ELECTRIC,

Defendant.

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
JUDGMENT
NOV 30 1976

TIME A.M.
P.M.

74-C-1531

-----X

This action having come on for trial before the Court, Honorable Jacob Mishler, United States District Judge, presiding and the Court, having entered findings of fact and conclusions of law on the record and finding in favor of the defendant and against the plaintiff and directing the Clerk to enter judgment dismissing the complaint with costs, it is

ORDERED and ADJUDGED that the plaintiff take nothing of the defendant and that the complaint is dismissed with costs.

Dated: Brooklyn, New York
November 30, 1976

Lewis Orgel
Clerk